THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.28002 of 1997

Date: 14.02.2007

Between:

Y.Ramanamma.

....Petitioner

And

The Joint Collector, Chittoor District, Chittoor and others.

....Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.28002 of 1997

O R D E R:

An extent of Ac.1.55 cents of land in Survey No.858/3 of Gurikuntapalle Village, Gurramkonda Mandal, Chittoor District was originally assigned to one Sri Y.Reddappa. In the year 1966, the assignment in favour of Reddappa was cancelled and the same was assigned to the husband of the petitioner, by name Venkataramana, by the Mandal Revenue Officer, second respondent herein. Wife of Reddappa, by name Salamma, third respondent herein preferred an appeal before the Revenue Divisional Officer, against the order of assignment in favour of Venkataramana. The appeal was allowed and the order of assignment in favour of Venkataramana was set aside. Aggrieved thereby, Venkataramana filed a revision before the Joint Collector, Chittoor, first respondent herein and the same was allowed. The third respondent filed W.P.No.22535 of 1996 before this Court against the orders of the first respondent. The Writ Petition was allowed on

11.04.1997, on the ground that no notice was issued to the third respondent, before the first respondent had allowed the revision. The matter was remanded to the first respondent, for fresh consideration and disposal.

After remand, the first respondent passed an order, dated 27.09.1997. He took into account the fact that the extent of Ac.4.88 cents of land in Survey No.878/1 of Gurikuntapalle Village was assigned in favour of the petitioner. The land assigned to the husband of the petitioner was also added and on finding that it comes to Ac.6.38 cents, the first respondent directed cancellation of the assignment of land in Survey No.878/1, to an extent of Ac.4.88 cents, in favour of the petitioner. The same is challenged in this Writ Petition.

The petitioner contends that the assignment made in her favour was never in dispute or challenge before any authority and when the subject matter of the revision before him was only the land in Survey No.858/3, the first respondent has no jurisdiction or power to cancel the assignment of land in Survey No.878/1.

The third respondent filed a counter affidavit, stating *inter alia* that the Writ Petition is not maintainable, since an alternative remedy is available to the petitioner by way of appeal to the Commissioner of Land Revenue. It is also

stated that since the petitioner's family was assigned lands exceeding the stipulated limits, no exception can be taken to the impugned order.

Heard the learned counsel for the petitioner, the learned Government Pleader for respondents 1 and 2 and learned counsel for the third respondent.

Aggrieved by the assignment of Ac.1.55 cents of land in Survey No.858/3 in favour of the husband of the petitioner, the third respondent initiated proceedings before the Revenue Divisional Officer. The appeal preferred by her was allowed by the Revenue Divisional Officer and the said order, in turn, was reversed by the first respondent in a revision. This Court remanded the matter to the first respondent for fresh consideration.

The controversy before the first respondent is confined to the validity of the assignment of land in Survey No.858/3 in favour of the husband of the petitioner. If the first respondent was of the view that there was any factual or legal error in the assignment in favour of the husband of the petitioner, he could have certainly passed necessary orders in relation to the land in Survey No.858/3. Curiously, the first respondent has taken into account, the land assigned in favour of the petitioner herein. Had it

been a case, where the said fact was taken into account, to assess the financial or economic status of the family headed by Venkataramana, some basis could have existed. Any opinion formed by the first respondent against the husband of the petitioner, in this regard, could, at the most, have entailed in cancellation of assignment in favour the husband of the petitioner. Surprisingly, the first respondent has chosen to direct cancellation of the assignment of the land in Survey No.878/1 in favour of the petitioner, little realising that the assignment in favour of the petitioner was not at all the subject matter of the proceedings before him.

Therefore, the Writ Petition is allowed and the impugned order is set aside. The matter is remanded to the first respondent for fresh consideration and disposal, wherein the consideration shall be confined to the validity or otherwise of the assignment of land in Survey No.858/3 of Gurikuntapalle Village, Gurramkonda Mandal, Chittoor District, in favour of the husband of the petitioner. Any deviation, in this regard, would be taken serious note of. There shall be no order as to costs.

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14.02.2007

JSU